

LEWIS
ANDROCA
LLP

L A W Y E R S

E-Filed on 2/3/10

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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEVADA

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,¹

USA Capital Diversified Trust Deed Fund,
LLC,

USA Capital First Trust Deed Fund, LLC,²

USA Securities, LLC,³

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**Stipulation to Reinstate Proof of Claim
Filed by Melvin W. Kerner, Trustee of
the Kerner Revocable Trust as it
Relates to Placer Vineyards
Investment**

USACM Liquidating Trust (the "USACM Trust"), by and through its counsel,
Lewis and Roca LLP, and Melvin W. Kerner, Trustee of the Kerner Revocable Trust
3/16/81 ("Kerner"), hereby stipulate:

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007

LEWIS
AND
ROCA
LLP
LAWYERS

1 1. Kerner filed proof of claim No. 10725-02288 in the amount of \$50,746.42
2 unsecured and \$50,746.52 secured. Attached to the Proof of claim were loan statements
3 for Roam Development and Placer Vineyards.

4 2. The claim was reclassified as an unsecured claim in the amount of
5 \$101,493.04.

6 3. Pursuant to an order of the Court [DE 7699], the Double Counted portion
7 of the Kerner claim of \$50,746.52 was disallowed.

8 4. Pursuant to objection and order on Roam Development [DE 6875], the
9 Claim in amount of \$49,368.54 related to Roam Development was disallowed, and
10 \$631.36 of Unremitted Principal was allowed as an unsecured claim. Consequently, all
11 but about \$100 of the claim was resolved.

12 5. Kerner contacted Counsel for the Trust and explained that he also intended
13 to file a claim for \$50,000 based upon an investment in the Placer Vineyards Loan. That
14 claim was effectively disallowed as a duplicate claim.

15 6. Accordingly, the USACM Trust agrees to reinstate Kerner claim no. 10725-
16 02288 as an unsecured non-priority claim in the amount of \$50,000.00, based upon an
17 investment in the Placer Vineyards Loan. The claim is subject to further objection.
18

19 LEWIS AND ROCA LLP

MELVIN W. KERNER
TRUSTEE OF THE KERNER
REVOCABLE TRUST 3/16/81

20
21 By s/John Hinderaker
22 Rob Charles NV (#6593)
23 John Hinderaker (AZ 18024
24 *pro hac vice*)
25 Attorneys for USACM Liquidating
26 Trust

By: s/ Melvin W. Kerner,
2012 Mesquite Ct..
Carlsbad, CA 92009-6883

DATED: February 3, 2010

DATED: February , 2010.

FROM :

1. Kerner filed proof of claim No. 10725-02288 in the amount of \$50,746.42 unsecured and \$50,746.52 secured. Attached to the Proof of claim were loan statements for Roam Development and Placer Vineyards.
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3. Pursuant to an order of the Court [DE 7699], the Double Counted portion of the Kerner claim of \$50,746.52 was disallowed.
4. Pursuant to objection and order on Roam Development [DE 6875], the Claim in amount of \$49,368.54 related to Roam Development was disallowed, and \$631.36 of Unremitted Principal was allowed as an unsecured claim. Consequently, all but about \$100 of the claim was resolved.
5. Kerner contacted Counsel for the Trust and explained that he also intended to file a claim for \$50,000 based upon an investment in the Placer Vineyards Loan. That claim was effectively disallowed as a duplicate claim.
6. Accordingly, the USACM Trust agrees to reinstate Kerner claim no. 10725-02288 as an unsecured non-priority claim in the amount of \$50,000.00, based upon an investment in the Placer Vineyards Loan. The claim is subject to further objection.

LEWIS AND ROCA LLP

MELVIN W. KERNER
TRUSTEE OF THE
KERNER REVOCABLE
TRUST 3/16/81By s/John
HinderakerRob Charles NV
(#6593)
John Hinderaker (AZ
18024
pro hac vice)
Attorneys for USACM
Liquidating TrustBy: s/Melvin W.
Kerner
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Carlsbad, CA 92009-6883DATED: February 3,
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